



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

JUN 24 2016

Charles Austin  
Herndon Heights CWA  
Box 405  
Bud, West Virginia 24716

RE: Notice of Violation, Docket No. SDWA-003-2016-024-VS  
Herndon Heights CWA, Bud, Wyoming County, West Virginia  
PWS ID No. WV3305539

Dear Mr. Austin,

The following Notice of Violation is issued pursuant to Sections 1414(a) and 1445 of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300g-3(a) and 300j-4(a), and is a coordinated effort with the West Virginia Department of Health and Human Resources (WVDHHR). According to our records and information received from WVDHHR, your public water system has violated certain provisions of the SDWA, 42 U.S.C. §§ 300f-300j-26, the National Primary Drinking Water Regulations (NPDWR) found at 40 Code of Federal Regulations (CFR) Part 141.

**NOTICE OF VIOLATION**

**FINDINGS**

Based on the information we possess:

1. Charles Austin is the Respondent of the Herndon Heights Community Water Association public water system (PWS), PWS Identification Number WV3305539 (System). Respondent is "person" as defined by Section 1401 (12) of the SDWA and 40 C.F.R. § 141.2.
2. According to the information provided by WVDHHR, Herndon Heights CWA is a consecutive ground water System that serves approximately 123 persons and has 50 service connections. Therefore, the System is both a public and community water system as defined by Section 1401(4) and 1401(15) of the SDWA, 42 U.S.C. §§ 300f (4), 300f (15), and by 40 C.F.R. § 141.2.
3. Respondent failed to collect the scheduled routine total coliform sample according to the written sample siting plan, as required by 40 C.F.R. § 141.21(a)(1)-(2), during the monthly monitoring periods from February 2012 through March 2016.

4. Respondent failed to develop a written sample siting plan for the Revised Total Coliform Rule (RTCR) which includes a sample collection schedule representative of water throughout the distribution system no later than March 31, 2016, as required by 40 C.F.R. § 141.853(a).
5. Respondent failed to monitor for the chlorine disinfectant concentration at the same point in the distribution system and at the same time total coliforms are sampled, as required by 40 C.F.R. § 141.132(c)(1) during the quarterly monitoring periods beginning July 2014, October 2014, January 2015, April 2015, July 2015, October 2015, and January 2016.
6. Respondent failed to report to WVDHHR the chlorine disinfectant concentration at the same point in the distribution system and at the same time total coliforms are sampled within ten (10) days of the quarterly monitoring period end date, as required by 40 C.F.R. § 141.134(a) in October 2014, January 2015, April 2015, July 2015, October 2015, and January 2016.
7. Respondent failed to report the laboratory results of the scheduled routine disinfection by-products, total trihalomethanes (TTHMs) and haloacetic acids (HAA5), to WVDHHR within ten (10) days of the annual monitoring periods ending in December 2012 and December 2013, as required by 40 C.F.R. § 141.134.
8. Respondent failed to report the laboratory results of the scheduled routine disinfection by-products, total trihalomethanes (TTHMs) and haloacetic acids (HAA5), to WVDHHR within ten (10) days of the annual monitoring periods ending in December 2014 and December 2015, as required by 40 C.F.R. § 141.629.
9. Respondent failed to monitor for nitrate and nitrite, as required by 40 C.F.R. § 141.23(d)-(e) during the annual monitoring period beginning January 2011.
10. Respondent failed to comply with routine tap sampling requirements for lead and copper analysis, as required by 40 C.F.R. § 141.86(a)-(c) during the monitoring periods beginning October 2013 and October 2014.
11. Respondent failed to employ a certified operator who meets the requirements specified by the State and who is included in the State register of qualified operators, as required by 40 C.F.R. § 141.130(c), since July 2013.
12. Respondent failed to address the significant deficiencies documented in the 2013 Sanitary Survey conducted by WVDHHR within thirty (30) days of receipt as required by 40 C.F.R. 141.403(a).
13. Respondent failed to complete corrective action in accordance with State specified actions within one-hundred twenty (120) days of receiving written notice from the State of significant deficiencies, as required by 40 C.F.R. § 141.404.
14. Respondent failed to deliver one copy of the 2012, 2013, and 2014 Consumer Confidence Reports (CCR) to each member of the service population by July 1 of the years 2013, 2014, and 2015, respectively, as required by 40 C.F.R. § 141.152(a) and § 141.155(a).
15. Respondent failed to deliver a copy of the 2012, 2013, and 2014 Consumer Confidence Report (CCR) to WVDHHR by July 1 of the years 2013, 2014, and 2015, respectively, as required by 40 C.F.R. § 141.155(c).
16. Respondent failed to notify persons who are served by the System of its monitoring and reporting violations as required by 40 CFR §141.204, during the following notification periods:
  - a. Failure to provide public notice by January 29, 2012 for failure to monitor for volatile organic chemicals (VOCs) during the 2008 triennial monitoring period.



- b. Failure to provide public notice by July 28, 2012 for failure to collect routine total coliform samples during the monthly monitoring period of June 2011.
  - c. Failure to provide public notice within one year of failing to collect routine total coliform samples during the monthly monitoring periods of February 2012 through March 2015.
  - d. Failure to provide public notice within one year of failing to monitor the chlorine disinfectant concentration during the monthly monitoring periods of November 2010 through July 2011.
  - e. Failure to provide public notice within one year of failing to monitor the chlorine disinfectant concentration during the quarterly monitoring periods beginning October 2013 through January 2015.
  - f. Failure to provide public notice by February 8, 2013 for failure to monitor nitrate and nitrite during the 2011 annual monitoring period.
  - g. Failure to provide public notice by November 11, 2014 for failure to monitor lead and copper during the 2011 triennial monitoring period.
  - h. Failure to provide public notice by January 20, 2016 for failure to monitor lead and copper during the 2014 annual monitoring period.
  - i. Failure to provide public notice by February 8, 2013 for failure to monitor for Stage I disinfection by-products (TTHM and HAA5) during the 2011 annual monitoring period.
  - j. Failure to provide public notice by February 7, 2014 for failure to monitor for Stage I disinfection by-products (TTHM and HAA5) during the 2012 annual monitoring period.
  - k. Failure to provide public notice by November 14, 2014 for failure to monitor for Stage I disinfection by-products (TTHM and HAA5) during the 2013 annual monitoring period.
  - l. Failure to provide public notice by September 19, 2015 for failure to monitor for Stage I disinfection by-products (TTHM and HAA5) during the 2014 annual monitoring period.
17. Respondent failed to submit to the WVDHHR copies of public notifications of the violations in paragraph 16, and provide certification that it had fully complied with the public notification regulations as required by 40 C.F.R. §141.31(d).

**The Environmental Protection Agency ("EPA") is available to provide advice and technical assistance to help address the above FINDINGS. Please contact Ms. Michelle Audie at 215-814-5457, if you wish to request such advice or assistance.**

This Notice of Violation is issued pursuant to Section 1414(a) of the SDWA, 42 U.S.C. § 300g-3(a). After thirty (30) days from the date of this notice, EPA is authorized to issue either an Administrative Order under Section 1414(g) requiring the public water system to comply, or to commence a civil action under Section 1414(b). Violations of the SDWA and the regulations are subject to penalties of up to \$37,500 per day of violation.

### **REQUEST FOR INFORMATION**

Section 1445(a) of the SDWA, 42 U.S.C. § 300j-4(a), authorizes EPA to require owners and operators of public water systems to provide information as may be necessary to carry out the purposes of the SDWA.

Pursuant to Section 1445(a) of the SDWA, Respondents are required to provide EPA with the following information. This requirement to submit information is mandatory. Compliance with this requirement does not relieve Respondents of any liability for violations of the SDWA. Respondents may be subject to civil and criminal sanctions if it provides misleading or false information or fails to provide the requested information. Information which Respondents provide may be used by EPA in administrative, civil or criminal proceedings.

You may, if desired, assert a business confidentiality claim covering all or part of the information requested herein in the manner described in 40 C.F.R. Part 2. If no claim of confidentiality accompanies the information requested herein, it may be made available to the public by EPA without further notice to you. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35 (See 5 C.F.R. § 1320.3(c)).

The instructions for responding to the inquiries are as follows:

- a. A separate narrative response must be made for each question set forth below, and for any subpart of each question.
- b. Label each response with the corresponding number of the question and any subpart to which it responds.

Accordingly, pursuant to Section 1445(a) of the SDWA, Respondents are directed to provide EPA the following information:

1. Name and street address of the primary owner(s) of the System. If this is a corporation, provide the names, titles, and addresses of officers. Do not provide a post office box.
2. Name and street address of the operator(s) of the System, and state certification number, if applicable. Do not provide a post office box. If this is a corporation, provide the names, titles, and addresses of officers. The street address of the System, or, if no street address is possible, the physical location of the System. Do not provide a post office box.
3. Number of persons served drinking water by the System per day, on average.
4. Number of service connections to the System.
5. State whether the System is operated year-round. If the System is not operated year-round, state the number of days in operation.
6. A copy of the most recently performed sanitary survey for the System.
7. Copies of all total coliforms laboratory analyses performed since February 2012.
8. A copy of the written sample siting plan developed for the RTRC which includes a sample collection schedule that is representative of water throughout the distribution system.
9. Copies of all chlorine disinfectant concentration data collected in the distribution system during routine total coliforms sampling since October 2013.
10. Copies of all routine disinfection by-products (TTHM and HAA5) laboratory analyses conducted since January 2011.



11. Copies of all nitrate and nitrite laboratory analyses conducted since January 2011.
12. Copies of all lead and copper data collected during tap samplings conducted since since October 2013.
13. A copy of the 2012, 2013, and 2014 Consumer Confidence Report (CCR) for the System.
14. Copies of any written responses forwarded to WVDHHR concerning the significant deficiencies cited in any Sanitary Survey conducted at the System.
15. Copies of any public notifications posted or provided to water users, regarding the violations listed in paragraphs 3 through 17 of the Findings.
16. Copies of any correspondence or reports forwarded to WVDHHR concerning violations and public notifications for the violations listed in paragraphs 3 through 17 of the Findings.
17. Any existing plans and schedules for monitoring, reporting and public notification.
18. Your response to this Notice of Violation and Request for Information shall be in writing.
19. Your response is due within thirty (30) days of receipt of this Notice of Violation and Request for Information. You should submit your response to:

Ms. Michelle Audie  
United States Environmental Protection Agency  
Ground Water and Enforcement Branch (3WP22)  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029  
Audie.Michelle@epa.gov

and

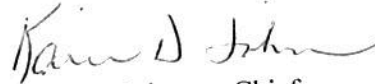
Mr. Walter M. Ivey  
West Virginia Bureau of Public Health  
Office of Environmental Health Services  
Environmental Engineering Division  
WV Department of Health and Human Resources  
350 Capitol Street, Room 319  
Charleston, WV 25301-3713

If you have any questions, please contact **Michelle Audie** at **215-814-5457**.

EPA has determined that your System may be a "small business" under the Small Business Regulatory Enforcement Fairness Act (SBREFA). The enclosed document entitled "Information for Small Businesses" provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, does not create any new rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the

administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen D. Johnson".

Karen D. Johnson, Chief  
Ground Water and Enforcement Branch

cc: Mr. Walter M. Ivey, WVDHHR Charleston Office  
Ms. Meredith Vance, WVDHHR Charleston Office  
Mr. John PB. Stafford, WVDHHR Beckley District Office